

**RECORD OF PROCEEDINGS
OF THE GOVERNING BODY
CITY OF GARDNER, KANSAS**

Page No.2007-69
September 10, 2007

The City Council of the City of Gardner, Kansas, met in special session on Monday, September 10, 2007, at 6:30 P.M. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Honorable Mayor, Carol Lehman presiding. Present were Councilmembers Winters, Breen, Raney, Drovetta and Shepherd. City Staff present were City Administrator Fairburn, Assistant City Administrator Mundt, Finance Director Gourley, Public Works Director Greene, Community Development Director Sherman, Public Safety Director Francis, Park and Recreation Director Stewart, City Attorney Hubbard and City Clerk Anderson. Others present included those listed on the attached sign in sheet and others who did not sign in.

CALL TO ORDER

There being a quorum of Councilmembers present, the meeting was called to order by Mayor Lehman at 6:30 P.M.

PLEDGE OF ALLEGIANCE

Councilmember Drovetta led those in attendance in the Pledge of Allegiance.

PRESENTATION

None.

John Shepherd stated that it was not his intent to embarrass the City of Gardner or the Gardner City Council when he left the meeting on September 4, 2007. Shepherd stated that the agenda contained items that he believed should be heard by all of the Councilmembers.

PUBLIC COMMENTS

Laura McKaig, 249 West Park, stated that she was disappointed last week at the Council meeting when she heard the Council say that they should schedule a meeting to discuss BNSF. McKaig stated that this should have been done. McKaig suggested to Council that they hire a independent consultant to help the Council make decisions. McKaig told the Council that she appreciates the time and effort of the City Councilmembers.

David Bohen, 835 N. Cedar Street, stated that he has not heard anyone talk about the benefit the Intermodal will be to Gardner. Bohen stated that he has heard the Allen Group talk about the possibility of larger corporations coming in. Bohen stated that in arbitrations, there are three parties. There is one party for each side and one neutral arbitrator. Bohen asked Council why they are willing to accept an arbitrator that the railroad picks and pays.

Clint Egger, 518 N. Elm, stated that as a former City Engineer, he is for progress. Egger stated that he is for progress only if the playing field is level. Egger stated that the Intermodal folks should submit a proposal and then an arbitrator. Egger reviewed many items of consideration. Egger stated that he is concerned about TIF.

Steve Hale, 3000 W. 159th, commended the City for their work on the 150th Celebrations. Hale stated that the City was embarrassed by what happened at the September 4, 2007 meeting. Hale stated that 70% of the people voted to annex the proposed Intermodal site. Hale stated that the voters expect the City to work with BNSF for the best interest of the City. Hale stated that the Council members should walk away when approached with The Gardner News being named the Official City Newspaper.

Vern Pickertt, 128 Pawnee, asked the Council to use principles of democracy for the pole of Gardner, stating that a majority opinion is what democracy is based upon.

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Darlene Williams, 3176 W. Cheyenne, stated that it is irresponsible to have someone leave their job. Williams stated that she is looking forward to the Intermodal and that the Council should respect the voters. Williams stated that the Intermodal will benefit the town. Williams stated that without the growth, there will be no jobs and the young people will move away. Williams stated that BNSF will bring jobs to the town. Williams asked the Council to put the highway where it is supposed to go. Williams stated that the trucks will not come through town but will use the highway to bypass Gardner.

Paul Waters, 526 S. Center, thanked Shepherd for standing up. Waters stated that he would like the City Council to hire someone to look out for the City. Waters asked that I-35 be completed before the traffic comes through and stated that he wants the interchange built. Waters asked that TIF not be used no any tax breaks. Waters asked the Council not to take money from the schools. Waters stated that property values are going down and that the City will have less money to operate because of the economy.

Robert Page, 249 W. Park Street, stated that he was unhappy about the walk out and thought that it was shameful. Page expressed appreciation for Shepherd's statement. Page stated that the overpass will come and that the railroad will come. Page stated that the Council will have to work with State and Federal governments. Page stated that the trucks cannot be stopped and that the warehouses will be built on the naval base if not at the Intermodal site. Page asked Council to get the negotiator to bring information back to them. Page wished the Council well and stated that they can work together. Page told Council that things cannot be done overnight. Page stated that he would rather no do TIF but there may not be a choice. Page gave an example of the City requiring 50% for 10 years. Page stated that if the City did this they would end up with more tax dollars than they are getting from the property at this time. Page also stated that this would also get the Allen Group moving to fill up the space with buildings. Page reminded the Council that they have the vote of the people.

Eric Kirkendall, 25865 W. 167th Street, urged the City Council to approach negotiations in a businesslike way. Kirkendall stated that Shepherd walked out of the meeting to keep Gardner from working with a negotiator hired by one that the City is negotiating with. Kirkendall informed Council of newspaper ads that he is running and surveys that he is conducting. Kirkendall gave the Council examples of the growth of other Intermodal sites. Kirkendall asked the Council to be responsible in planning for growth.

Linda Meisinger, 25800 W. 199th Street, Dolphin Song Owner, expressed her appreciation for Shepherd's actions at the last Council Meeting. Meisinger read a prepared outline of comments to Council. Meisinger commented on Lehman's comments after the City Council Meeting on September 4, 2007 regarding the responsibilities of Councilmen. Meisinger stated that the main responsibility of City Council members is to represent the Citizens and to fulfill that representation through truth, honesty and integrity. Meisinger stated that the Mayor wants the City to enter into negotiations. Meisinger stated that the Council needs to come to a clear decision about what will be best for Gardner before entering into negotiations. Meisinger stated that the quorum of September 4, 2007 was a contrived quorum. Meisinger stated that she applauded Shepherd walking out. Meisinger stated that the City can make demands, such as \$5.00 per lift and portable scales. Meisinger stated that she supports Breen and that the people of Gardner owe him great thanks for being clear and decisive.

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CONSENT ITEMS

Councilmember Shepherd asked that Consent Items 4, 5, 6, & 7 be removed for further discussion.

Councilmember Shepherd made a motion to approve Consent Items 1, 2 and 3.

1. Standing approval of the minutes as written for the regular meeting on August 20, 2007.
2. Standing approval of the expenditures prepared on August 17 and 24, 2007, in the amount of \$2,445,328.45.
3. Consider authorizing the City Administrator to sign the Letter of Understanding for funding of the 2008 Minor Home Rehabilitation Program.
4. ~~Consider the Acceptance of Easements and Rights-of-Way for the Final Plat for Cottage Park West, 23rd Plat; FP-07-14.~~
5. ~~Consider the Acceptance of Easements and Rights-of-Way for the Final Plat for Cottage Park West, 24th Plat; FP-07-15.~~
6. ~~Consider the Acceptance of Easements and Rights-of-Way for the Final Plat for Cottage Park West, 25th Plat; FP-07-16.~~
7. ~~Consider electing City delegates to the League of Kansas Municipalities business meeting.~~

Councilmember Drovetta seconded the motion.

All the members in favor of the motion, the motion carried.

Shepherd asked why the lots in Consent Items 4, 5, and 6 are coming in one at a time. Fairburn explained that they are coming in as they are being built. Drovetta stated that the builders are building structures, paying fees and then replatting them to sell off. Shepherd asked if the Council is going to get a list of what is being voted on from the designee for the League of Kansas Municipality business meeting. Fairburn stated that the Council can get an agenda.

Councilmember Shepherd moved to approve Consent Items 4, 5.6 & 7.

4. Consider the Acceptance of Easements and Rights-of-Way for the Final Plat for Cottage Park West, 23rd Plat; FP-07-14.
5. Consider the Acceptance of Easements and Rights-of-Way for the Final Plat for Cottage Park West, 24th Plat; FP-07-15.
6. Consider the Acceptance of Easements and Rights-of-Way for the Final Plat for Cottage Park West, 25th Plat; FP-07-16.
7. Consider electing City delegates to the League of Kansas Municipalities business meeting.

Councilmember Breen seconded the motion.

All the members in favor of the motion, the motion carried.

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NEW BUSINESS

Development Consultant Services

Councilmember Drovetta made a motion to authorize the City Administrator to execute a contract with IRR Corporate and Public Finance LLC for development consultant services for the Intermodal and Logistics Park project.

Councilmember Breen seconded the motion.

With the majority the members in favor of motion, the motion carried. Raney and Shepherd voted no.

Bull Creek Lift Station Force Main

Councilmember Drovetta made a motion to consider a Resolution authorizing staff to proceed with a survey and to prepare descriptions of land that must be acquired for the Bull Creek Lift Station Force Main, Project PW 0505

Councilmember Shepherd seconded the motion.

On a roll call the vote was: Winters Yes; Breen, Yes; Raney, Yes; Drovetta, Yes; Shepherd, Yes With the all of the members voting in favor of the motion, the resolution was adopted and assigned **Resolution No. 1732**

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East Santa Fe Relocation Project

Councilmember Drovetta made a motion to consider a Resolution authorizing city staff to proceed with a survey and to prepare descriptions of land that must be acquired for the East Santa Fe Relocation Project.

Councilmember Breen seconded the motion.

On a roll call the vote was: Winters Yes; Breen, Yes; Raney, Yes; Drovetta, Yes; Shepherd, Yes. With the all of the members voting in favor of the motion, the resolution was adopted and assigned **Resolution No. 1733**

Runway 8-26 Rehabilitation

Councilmember Raney made a motion to consider authorizing the City Administrator to execute an amendment to the contract with HNTB Corporation to provide construction engineering for the rehabilitation of Runway 8-26, Project PW0409.

Councilmember Breen seconded the motion.

All the members in favor of the motion, the motion carried.

Change Order #3-Celebration Park

Councilmember Raney made a motion to authorize change order #3 with Orr Construction, Inc in the amount of \$191,735.00.

Councilmember Breen seconded the motion.

All the members in favor of the motion, the motion carried.

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Water Development Fees

Councilmember Winters made a motion to pass Ordinance #2243 amending Ordinance 2205 and lowering the water development fee for multi-family units in a master metered building from \$3,100 to \$2,300.

Councilmember Breen seconded the motion.

On a roll call the vote was: Winters, Yes; Breen, Yes; Raney, Yes; Drovetta, Yes; Shepherd, Yes; With all of the members voting in favor of the motion, the ordinance was passed and assigned **Ordinance No. 2243**.

Mundt reminded Council and guests of the Festival on the Trials event on September 14 and 15. Mundt informed Council that there will be a Dedication of Junction Park on Friday, September 14, 2007 at 3:00 PM.

Lehman invited everyone to bring their families and their guests to enjoy the 150 Celebrations.

Mundt informed Council of road closures and the closure of the City parking lot on Thursday, Friday and Saturday.

Raney asked Fairburn when to expect the Electric review. Fairburn informed Raney that he met with Black and Veatch on August 17 and is expecting the appraisal portion at any time. Fairburn stated that he expects the second portion, a cost benefit for BNSF area in October. Fairburn stated that this will be coming back to Council in October.

There being no further business to come before the Council, on a motion duly made and seconded, the meeting adjourned at 8:10 PM.

Teresa Anderson, City Clerk